

Testimony of Patrick Cunningham RN, BA, MSN, Gentiva Health Services

To the Public Health Committee

Regarding HB 6844

An Act Concerning Patients of Home Healthcare Agencies

Wednesday, February 21, 2007

Senator Handley, Representative Sayers and members of the Public Health Committee thank you for this opportunity to address you today in support of **House Bill No 6844: An Act Concerning Patients of Home Health Agencies**.

This is a very important piece of legislation.

As you are aware, a large number of mentally ill people receive homecare services from home health agencies in Connecticut. These patients suffer from a wide range of mental illnesses and some also suffer from a number of severe medical illnesses. The combination of severe mental illness, complex medical illness, numerous psychiatric and medical medications and a complicated and gap laden healthcare system often results in an overwhelming disease burden for these patients.

As a result of deinstitutionalization from our psychiatric hospitals over the past thirty to forty years there are now a large number of individuals such as this living in our respective communities. Over the past ten to fifteen years the use of home healthcare nurses to fill some of the gaps in the healthcare system and to manage some of the issues related to serious and persistent mental illness, most notably medication non-adherence, has become common place. It is not surprising that the provision of services to this population has become an important source of revenue to homecare agencies and income to the nurses who provide these services on behalf of these agencies.

The Behavior:

Sadly, the services that we provide this population have become corrupted by a few but damaging homecare agencies and nurses. As time has passed some nurses working in this field have come to view the patients they serve as "their patients", and some agencies have come to view this as true also. The result is that these nurses now feel that they can move from one agency to another and bring "their patients" with them, and some agencies seek to hire nurses who they think will bring large caseloads of revenue bearing patients to the agency. The result is that unscrupulous nurses barter with unethical agencies for the best deal they can strike, and abandon an agency they do not like at short notice or indeed with no notice at all.

Most often the precipitating reason for the nurse wanting to move to another agency is that their current agency wants to improve the standard of care being delivered, the level of documentation required of the nurses, or is simply attempting to bring practices in line with state and federal regulations.

The movement of large numbers of patients from agency to agency is accomplished through the nurse and the new agency only – **at no time is the patients' permission to change their healthcare provider considered or sought.** I have seen nurses use tactics such as:

- Nurse to patient: "I am leaving agency X for agency Y and you are coming with me", or
- Nurse to patient: "I am leaving agency X for agency Y and you must sign this if I am to keep seeing you", or
- Nurse to patient: I am leaving agency X for agency Y and I am taking you with me. Then to the physician "I am leaving agency X for agency Y and the patient wants to come with me", or
- Nurse to patient: "I am now working for agency Y; I need you to sign the admission form".

The Impact of the Behavior:

The most significant impact of this behavior is on the patients' right to choose their healthcare provider. Though quite compromised because of mental and medical illness **these patients are still competent to make decisions in this area.** Because they hear of the switch in their homecare agency after the fact they fear losing services and do not complain. Indeed, it is never explained to them that they have a right to complain, a right to choose and that if they do elect not to change their homecare provider they will still receive services because **the agency will provide a nurse and services will not be interrupted.**

A second significant impact is on the agency that is losing the patients. Because of the loss of business office staff that support this business loose their jobs and their livelihoods. I have personally witnessed this on two occasions since joining Gentiva in May, 2004. In late August 2004 a number of nurses left our Farmington office because they did not want to comply with changes in our standards of practice. Within two weeks a large number of patients were moved to another agency. Because of this two positions in our Farmington office had to be eliminated.

In June 2005 the same thing happened in our Hamden office. Once again a number of positions had to be eliminated and this branch operated at a loss from June 2005 until December 2006. On this occasion I did report the nurses involved to the Board of Nursing. Unfortunately they were unable to proceed to prosecuting a case against these nurses and both Gentiva and I now find ourselves defending a civil action brought by these nurses as a result of my report.

Another significant impact of this behavior is the impact on the development and improvement of standards of practice in the behavioral health homecare arena. Because of the revenue attached to these services and the impact that losing it has on an agency, many are reticent to implement the changes that are needed to provide appropriate care to our patients. Such changes require extra demands on nurses' time and effort. Many nurses do not want to make these changes and threaten to leave and take "their patients" with them. Because we are concerned for the innocent staff who loose their jobs as a result of such activity it is very difficult for quality minded and ethical agencies to manage their business.

This behavior by unscrupulous nurses and the unethical agencies that encourage them has a profound effect on our patients, our colleagues and our business.

The Intent of HB 6844:

My intent for HB 6844 would be that we recognize in legislation the following:

- Patients are the client of the homecare agency, not the nurse who provides services on behalf of the agency.
- The patient alone has the right to choose his/her healthcare provider.
- That agencies and nurses who have a financial interest in providing care to patients should not influence or direct the patients' decision.
- Nurses who terminate employment with an agency must also terminate their relationship with their patients in a professional manner and must not in any way interfere with the relationship between their former patients and their former employer.

Right now the draft language currently in HB 6844 does not match the intent of this Bill. I feel that the language needs to be amended in order to meet the above criteria. I am available and would be privileged to assist or advise in this process.

Behavioral health homecare services are a significant aspect of the healthcare continuum. Nurses providing these services not only manage complicated psychiatric and psychosocial issues but are also in many instances the first to recognize, organize and coordinate primary medical services for their patients. However changes do need to be made to the philosophy and practices of some in our midst in order for the rest of us to practice and continue to provide services in an ethical, professional and efficient manner.

I absolutely believe that HB 6844 is the pivotal piece of legislation that will accomplish these necessary changes. I thank you for the consideration you have given it thus far and I earnestly ask you to support the passage of this Bill through our state legislature.

Respectfully yours,

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